



General Assembly

January Session, 2001

Raised Bill No. 6798

LCO No. 3933

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING INVESTIGATORY GRAND JURY
SUBPOENAS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-47f of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) The investigatory grand jury, in conducting the investigation,
4 may (1) seek the assistance of the Chief State's Attorney or state's
5 attorney who filed the application, or [his] the designee of said Chief
6 State's Attorney or state's attorney, (2) appoint an attorney to provide
7 assistance if a judge of the Superior Court, Appellate Court or
8 Supreme Court filed the application or (3) appoint any other attorney
9 to provide assistance when necessary in the interest of justice.

10 (b) The attendance of witnesses and the production of documents at
11 such [investigations] investigation may be compelled by subpoena,
12 signed by any official authorized to issue such process. Such subpoena
13 may be sealed if the state's attorney for the judicial district designated
14 in subsection (a) of section 54-47d, as amended by this act, or, if such
15 state's attorney is the applicant or has been appointed to assist in such

16 investigation, the Chief State's Attorney demonstrates to the
17 investigatory grand jury with reasonable specificity that issuance of
18 the subpoena other than under seal will result in: (1) Endangering the
19 life or physical safety of any person, (2) the flight from prosecution of
20 potential defendants, (3) the destruction of or tampering with
21 evidence, (4) the intimidation of potential witnesses, or (5) the
22 investigation being adversely affected to the same extent as the
23 circumstances set forth in subdivisions (1) to (4), inclusive, of this
24 subsection.

25 (c) Whenever a subpoena has been issued pursuant to subsection (b)
26 of this section, the person summoned may file a motion to quash the
27 subpoena or, if the subpoena was sealed, to unseal the subpoena with
28 the chief clerk of the judicial district designated in subsection (a) of
29 section 54-47d, as amended by this act. No fees or costs shall be
30 required or assessed. The motion shall be docketed as a criminal
31 matter. The party filing the motion shall be designated the plaintiff and
32 the state's attorney shall be designated the defendant. When the
33 subpoena has been sealed pursuant to subsection (b) of this section, the
34 party filing the motion shall be designated as "John Doe" or "Jane Doe"
35 and the subpoena may be filed under seal with the chief clerk rather
36 than appended to the motion. A prosecuting authority shall appear
37 and defend on the behalf of the state's attorney. Except when the
38 subpoena is sealed or as otherwise ordered by the judicial authority
39 before whom the hearing on the motion to quash is conducted, the
40 hearing shall be conducted in public and the court file on the motion to
41 quash shall be open to public inspection. The motion shall be heard
42 forthwith by a judicial authority who is not a member of the panel of
43 judges or the investigatory grand jury. The hearing date and time shall
44 be set by the clerk after consultation with the judicial authority having
45 responsibility for the conduct of criminal business within the judicial
46 district. The clerk shall give notice to the parties of the hearing so
47 scheduled.

48 [(c)] (d) If any witness properly summoned fails to appear or to

49 produce any documents included in the subpoena, or if [he] such
50 witness fails to answer any proper question, the investigatory grand
51 jury conducting the investigation may report the matter to the state's
52 attorney for the judicial district which has been designated in
53 subsection (a) of section 54-47d, as amended by this act, unless such
54 state's attorney is the applicant or has been appointed to assist in such
55 investigation, in which case the investigatory grand jury shall report
56 the matter to the Chief State's Attorney, and such state's attorney or
57 Chief State's Attorney, as the case may be, may file a complaint setting
58 forth the facts at any criminal session of the superior court in such
59 judicial district. The court shall thereupon issue a citation to the
60 witness to appear before the court and show cause why [he] such
61 witness should not be punished as for a contempt, and if, after hearing,
62 the court finds that [he] such witness failed to appear without due
63 cause or failed to produce any document properly to be presented to
64 the investigatory grand jury or failed to answer any proper question in
65 the course of the investigation, it may punish [him] such witness as it
66 might a witness failing to appear, to produce a document properly to
67 be considered or to answer a proper question before the court.

68 [(d)] (e) Witnesses may be examined by the investigatory grand jury
69 conducting the investigation or by any attorney or attorneys appointed
70 by such investigatory grand jury for such purpose. At the hearing, the
71 official conducting the investigation shall inform the witness that [he]
72 the witness has the right to have counsel present and to consult with
73 such counsel.

74 [(e)] (f) The official conducting the investigation shall inform any
75 witness who is a target of the investigation that [he] the witness is a
76 target and shall advise [him] such witness that [he] such witness has
77 the right under the constitution of the United States and the
78 constitution of Connecticut not to be compelled to be a witness, or to
79 give evidence, against himself or herself.

80 [(f)] (g) Any attorney appointed to assist in conducting the

81 investigation shall disclose to the investigatory grand jury any
82 exculpatory information or material in [his] such attorney's possession,
83 custody or control concerning any person who is a target of the
84 investigation.

85 [(g)] (h) An official stenographer of the Superior Court or [his] such
86 stenographer's assistant shall record any testimony taken at the
87 investigation.

88 Sec. 2. Subsection (a) of section 54-47d of the general statutes is
89 repealed and the following is substituted in lieu thereof:

90 (a) If the panel approves the application and orders an investigation
91 into the commission of a crime or crimes, the Chief Court
92 Administrator shall (1) appoint an investigatory grand jury to conduct
93 the investigation, and (2) designate the court location in the judicial
94 district where any motions to quash or unseal a subpoena and any
95 contempt proceedings shall be heard and any findings and records of
96 the investigation shall be filed.

97 Sec. 3. Section 54-47e of the general statutes is repealed and the
98 following is substituted in lieu thereof:

99 Any order authorizing the investigation into the commission of a
100 crime or crimes and any application filed with the panel pursuant to
101 section 54-47c or subsection (c) of section 54-47d shall be sealed. The
102 panel shall submit to the Chief Court Administrator a summary of the
103 scope of the investigation, any recommendation as to the court location
104 at which any motions to quash or unseal a subpoena and any contempt
105 proceedings are to be heard and the finding and record of the
106 investigation are to be filed. Such summary shall be public unless the
107 panel determines, by majority vote, that such summary be sealed for
108 purposes of (1) ensuring the public safety of any individual, (2)
109 ensuring that the investigation would not be adversely affected, or (3)
110 complying with other provisions of the general statutes or rules of
111 court which prohibit disclosure of such information. Any investigation

112 by the investigatory grand jury shall be conducted in private, provided
113 the panel, by a majority vote, may order the investigation or any
114 portion thereof to be public when such disclosure or order is deemed
115 by the panel to be in the public interest.

Statement of Purpose:

To authorize a subpoena issued by an investigatory grand jury to be sealed under certain circumstances.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]